

**BILL ANALYSIS**

C.S.H.B. 1830  
By: Kuempel  
Licensing & Administrative Procedures  
Committee Report (Substituted)

**BACKGROUND AND PURPOSE**

Interested parties note that as a response to the increase in the number of game rooms in Harris County, the associated rise in criminal activity, and law enforcement's difficulties in closing down game rooms in violation of Texas law, the legislature recently provided Harris County with certain regulatory authority to combat illegal gambling occurring at these game rooms. The parties further assert that law enforcement and counties across the state voice frustration in their efforts to effectively enforce gambling statutes with regard to game rooms. C.S.H.B. 1830 seeks to provide all counties with the same tools to bring game rooms into compliance with state law.

**CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

**RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

**ANALYSIS**

C.S.H.B. 1830 repeals Subchapter E, Chapter 234, Local Government Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular Session, 2013, relating to the regulation of game rooms by a county with a population of less than 25,000 that is adjacent to the Gulf of Mexico and is within 50 miles of an international border and also repeals Section 234.132, Local Government Code, as added by Chapter 1377 (H.B. 1127), Acts of the 83rd Legislature, Regular Session, 2013, which limits the applicability of statutory provisions relating to the regulation of game rooms to a county with a population of four million or more.

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1830 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 234.131, Local	No equivalent provision.

Government Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular Session, 2013, is amended by adding Subdivisions (1-a), (1-b), (1-c), (5), (6), (7), and (8) to read as follows:

(1-a) "Applicant" means a person, owner, corporation, partnership, or other business entity required to submit a game room application.

(1-b) "Current fire inspection report" means a fire inspection report issued by a fire department not earlier than the 60th day immediately preceding the date an application for issuance or renewal of a game room is filed.

(1-c) "Gambling device" has the meaning assigned by Section 47.01, Penal Code.

(5) "Peace officer" has the meaning assigned by Article 2.12, Code of Criminal Procedure.

(6) "Public building" means a building used by federal, state, or local government that is open to the general public.

(7) "Regulation" means a regulation adopted by a county in this state for the operation of a game room.

(8) "School" means a facility, including all attached playgrounds, dormitories, stadiums, and other appurtenances that are part of the facility, used for the primary purpose of instruction or education, including primary or secondary schools, colleges, and universities, both public and private.

SECTION 2. Section 234.134, Local Government Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular Session, 2013, is amended to read as follows:

Sec. 234.134. [~~LICENSES OR~~] PERMITS.

(a) A county may require that an owner or operator of a game room obtain a [~~license or~~] permit or renew a [~~license or~~] permit on a periodic basis to own or operate a game room in the county. An application for a [~~license or~~] permit must be made in accordance with regulations adopted by the county.

(b) Regulations adopted under this section may provide for the denial, suspension, or revocation of a [~~license or~~] permit.

(c) A district court has jurisdiction of a suit that arises from the denial, suspension, or revocation of a [~~license or other~~] permit by a county.

No equivalent provision.

SECTION 3. Subchapter E, Chapter 234,

No equivalent provision.

Local Government Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular Session, 2013, is amended by adding Sections 234.1341 and 234.1342 to read as follows:

Sec. 234.1341. PERMIT APPLICATION. (a) An owner or operator of a game room may not operate, use, or maintain any game room in a county that requires an owner or operator to obtain a permit under Section 234.134 unless the owner or operator holds a permit issued under this subchapter.

(b) An applicant shall file a completed application with the county sheriff's office of the county in which the proposed game room will be located. The application shall be filed on the form provided by the office or on an accurate and legible copy of that form. The applicant must apply in person at the office.

(c) The sheriff's office shall post a copy of the application form and the permit fee amount on the county's Internet website. The office shall establish the hours for submission of applications under this section.

(d) The game room administrator of the sheriff's office shall mail notice of receipt of a completed application or notice of deficiencies in an application to the applicant not later than the 10th day after the date the application is received by the office.

(e) Each application must be accompanied by:

(1) an annual inspection report showing compliance with any correction ordered by the sheriff's office or a fire safety official;

(2) a copy of the certification of occupancy or certification of compliance issued by the building official as appropriate for the proposed game room;

(3) a diagram or floor plan that is prepared by a licensed architect or engineer, includes designed occupancy load, and is reviewed by the county clerk;

(4) for a game room operating under an assumed name, a copy of the assumed name certificate filed in the county clerk's office that includes the file mark or stamp evidencing its filing;

(5) a nonrefundable application fee in the amount established by the county commissioners court; and

(6) a copy of the applicant's government-issued photo identification.

(f) An applicant's failure to provide the information or documents or pay the fee required by this section or a determination by

the sheriff's office that inaccurate, erroneous, or incomplete information has been submitted is grounds for denial or revocation of the application.

Sec. 234.1342. PERMIT RENEWAL. (a) A permit holder may annually renew the permit not earlier than 60 days before the date a permit expires by filing a completed application for the permit with the game room permit administrator of the sheriff's office and paying the applicable fee. A renewal application is subject to the same requirements as a permit application.

(b) If the sheriff's office denies a game room permit, the office shall give the applicant written notice of the basis for denial.

SECTION 4. Section 234.135, Local Government Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular Session, 2013, is amended to read as follows:

Sec. 234.135. FEES; ISSUANCE OF PERMIT; PREMISES REQUIREMENTS. (a) A county may impose a fee not to exceed \$1,000 on an applicant for a [~~license or~~] permit or for the renewal of the [~~license or~~] permit required under this subchapter. The fee must be based on the cost of processing the application and investigating the applicant.

(b) An applicant shall pay the permit fees imposed under this section to the sheriff's office. On completion of the application process, the game room administrator of the sheriff's office shall give the applicant a signed receipt. The receipt constitutes a permit to operate the game room until the first anniversary of the date the permit is issued.

(c) A person who holds a permit issued under this section must meet and comply with all requirements of law applicable to the game room premises or any activity conducted on the game room premises. The issuance of a permit under this section does not excuse the permit holder, the permit holder's agents or employees, or any patrons of the game room for a violation of this subchapter or other law.

No equivalent provision.

SECTION 5. Section 234.136, Local Government Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular Session, 2013, is amended to read as follows:

Sec. 234.136. INSPECTION BY LAW ENFORCEMENT OFFICER. (a) A peace

No equivalent provision.

officer or county employee may inspect a business in the county to determine the number of amusement redemption machines subject to regulation under this subchapter that are located on the premises of the business. A peace officer is authorized to inspect any business for a violation of this subchapter. This section does not authorize a right of entry otherwise prohibited by law. A peace officer may enter a business under this section with consent, with a warrant, or under exigent circumstances. A game room permit granted under this subchapter gives peace officers implied consent under this section to enter the premises of the game room.

(a-1) A business for which a game room permit has not been issued under this subchapter that holds itself out as a game room, by sign, advertisement, word-of-mouth, offering of memberships, or any other means, is subject to inspection by a peace officer. Refusal to allow a peace officer entry to inspect the premises of the game room may be considered in establishing probable cause for the issuance of a search warrant to inspect for violations of this subchapter.

(b) A peace officer or county employee may inspect any business in which six or more amusement redemption machines are located to determine whether the business is in compliance with this subchapter or regulations adopted under this subchapter or to inspect records required under Section 234.1362.

(c) A person violates this subchapter if the person fails to allow a peace officer or county employee to conduct an inspection of a game room, an amusement redemption machine, or records required under Section 234.1362 or this section.

SECTION 6. Subchapter E, Chapter 234, Local Government Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular Session, 2013, is amended by adding Sections 234.1361, 234.1362, 234.1363, 234.1364, 234.1365, 234.1366, and 234.1367 to read as follows:

Sec. 234.1361. DISPLAY OF GAME ROOM PERMITS. An owner or operator of a game room shall display a current game room permit on the game room premises. The permit must be displayed in plain sight in a common area accessible to the public without entrance to a controlled area of the business.

Sec. 234.1362. RECORDS REQUIRED. (a)

No equivalent provision.

An owner or operator of a game room shall maintain on the premises:

(1) a record for each employee that includes:

(A) the employee's name, address, date of birth, state identification number or social security number, job function, and W-2 or W-4 form;

(B) a copy of the employee's application to work with the game room and a copy of the employee's I-9 filed for employment eligibility verification with the Department of Homeland Security; and

(C) a photograph of the employee;

(2) a daily register that includes the name, date of birth, state identification number or social security number, and job function of each employee present at the establishment that day; and

(3) a copy of the county and state tax record forms for each amusement redemption machine on the premises that includes the name of the manufacturer, the serial number, the type of machine, and the serial number of the tax permit for a coin-operated machine and, if applicable, the serial number for the county tax permit, with the year of expiration for any tax permit.

(b) An owner or operator who violates Subsection (a) shall be assessed a civil penalty of not more than \$10,000 for each record required under this section that is missing.

(c) The game room shall preserve the daily register required by Subsection (a)(2) for at least 90 days after the date the register was made. An owner or operator who violates this subsection may be assessed an administrative penalty in the amount of \$500 for each register required to be preserved that is missing.

Sec. 234.1363. PROHIBITED EMPLOYMENT. (a) An owner or operator of a game room may not knowingly employ any person who has been previously convicted of, or entered a plea of nolo contendere or guilty or received deferred adjudication for, an offense involving any conduct involving gambling violations prohibited under Chapter 47, Penal Code.

(b) An owner or operator of a game room shall conduct a criminal background check on each potential employee.

(c) Failure to comply with this section is a violation and punishable by a civil penalty assessed against an owner or operator not to exceed \$10,000 per prohibited employee working at the game room and per employee

working at the game room without being subjected to a criminal background check.

(d) Each day a violation of this section continues or occurs constitutes a separate violation for purposes of imposing a penalty under Section 234.137.

Sec. 234.1364. AMUSEMENT REDEMPTION MACHINES; PERMITS AND VIOLATIONS. (a) An owner or operator of a game room shall obtain from the county a permit for each amusement redemption machine on the game room premises in accordance with Chapter 2153, Occupations Code.

(b) The owner or operator of a game room shall pay an annual fee in an amount equal to 25 percent of the state's annual fee per machine.

(c) Each amusement redemption machine permit application shall specify on the application the physical location of the amusement redemption machine.

(d) If a permit is not obtained for an amusement redemption machine, the county tax assessor-collector's office shall lock the machine, and it may not be used until the owner purchases a permit for the machine by paying a \$100 permit fee and a \$5 release fee per machine.

(e) If a county compliance officer is not allowed entrance to a game room during business hours, a civil penalty not to exceed \$10,000 for each date of denial will be assessed on the owner or operator of the game room.

(f) A county may assess a civil penalty under Section 234.137 on the owner or operator of a game room for each machine:

(1) that is not registered with a valid current year video tax stamp decal prominently displayed on the machine; and

(2) used for illegal gambling.

(g) If a law enforcement agency determines through investigation that a game room is operating in violation of Chapter 47, Penal Code, every amusement redemption machine or gambling device in the game room is considered in violation. A civil penalty not to exceed \$10,000 per machine or device may be assessed on the owner or operator of the game room.

(h) It is not a defense to prosecution under this section that the owner is not doing business in the owner's name, is not leasing property in the owner's name, or only has an

ownership interest in the business.

Sec. 234.1365. GROUNDS FOR DENIAL, REVOCATION, OR SUSPENSION OF PERMIT.

(a) Any violation of this subchapter or regulations adopted under this subchapter or failure to meet all requirements of this subchapter and regulations adopted under this subchapter is grounds for denial, revocation, or suspension of a permit to operate a game room. If a game room's permit has been revoked, denied, or suspended, the game room may not be operated during the pendency of any appeal from the revocation, denial, or suspension.

(b) The sheriff shall deny a game room permit on a finding by the sheriff that the applicant:

(1) has been previously convicted of any of the following offenses:

(A) gambling, gambling promotion, keeping a gambling place, communicating gambling information, possession of gambling devices or equipment, or possession of gambling paraphernalia under Chapter 47, Penal Code;

(B) forgery, credit card abuse, or commercial bribery under Chapter 32, Penal Code;

(C) any criminal offense under Chapter 34, Penal Code;

(D) criminal attempt, conspiracy, or solicitation to commit any of the offenses listed in Paragraphs (A)-(C) or any other offense under the laws of another state or of the United States that, if committed in this state, would have been punishable as one or more of the offenses; or

(E) a criminal offense under Subchapter B, Chapter 352, if:

(i) less than two years have elapsed since the later of the date of conviction or the date of release from confinement imposed for the conviction of a misdemeanor offense; or

(ii) less than five years have elapsed since the later of the date of conviction or the date of release from confinement for the conviction of a felony offense;

(2) makes a misleading statement in the application for the game room permit;

(3) is younger than 18 years of age;

(4) has had a game room permit revoked within the 180-day period immediately preceding the date the application was filed;

(5) is delinquent in the payment to the county of taxes, fees, fines, or penalties assessed or imposed regarding the operation of a game room;

(6) failed to pay the application or renewal fee



required by this subchapter; or

(7) has not had the required fire and life safety inspection by a fire safety official within 60 days immediately preceding the date the application was filed.

(c) The sheriff may initiate a proceeding to revoke or suspend a game room permit if:

(1) any person commits on the premises of the game room an offense listed in Subsection (b)(1);

(2) the applicant provides false, fraudulent, or untruthful information on the original or renewal application;

(3) the game room permit should not have been issued under the requirements of this subchapter or regulations adopted under this subchapter;

(4) the owner or operator of the game room fails to comply with corrections ordered by a fire safety official with authority to conduct fire and life safety inspections in the county in which the game room is located; or

(5) the owner is convicted of an offense listed in Subsection (b)(1).

(d) The sheriff may not issue a game room permit or temporary game room permit until final disposition of any case involving an offense listed in Subsection (b)(1) that is pending or arises during the application process.

Sec. 234.1366. REVOCATION OR SUSPENSION OF PERMIT. (a) If an event providing a basis for revocation or suspension of a game room permit under Section 234.1365 occurs, the sheriff shall send to the game room permit holder or the holder's designated agent a written notice of revocation or suspension. The notice must set out the reasons for the action. The revocation or suspension is final on the fifth day after the date notice is issued.

(b) The game room permit holder or the holder's designated agent may appear before a hearing examiner appointed by the commissioners court of the county in which the game room is located on written request submitted to the sheriff not less than the 10th business day after the date the notice is delivered.

(c) The hearing examiner may not have participated in any investigation of the alleged grounds for the revocation or suspension. The hearing must be held not later than the 14th business day after the date the request for hearing is submitted.

(d) The game room permit holder and the sheriff are entitled to present evidence, cross-examine witnesses, and be represented by legal counsel. The rules of evidence for a civil, nonjury trial apply to the hearing.

(e) If the facts presented at the hearing support a finding that grounds exist for revoking or suspending a game room permit, the hearing examiner may request that the parties present relevant evidence to show whether suspension or revocation of the game room permit is more appropriate. Reasonable conditions may be attached to a game room permit by the hearing examiner based on the evidence presented at the hearing.

(f) If the hearing examiner determines that a game room permit should be revoked, the hearing examiner shall issue a written order revoking the game room permit that is effective immediately.

(g) If the hearing examiner determines based on the nature of the violations that a suspension instead of a revocation is appropriate, operation of the game room permit may be suspended for a period not to exceed six months. The hearing examiner shall issue a written order suspending the game room permit and attaching any applicable conditions that is effective on the date the owner receives notice.

(h) On a finding that Section 234.1365(c)(3), (4), or (5) has been violated, the hearing examiner shall revoke the game room permit.

(i) Revocation takes effect immediately on notice by the sheriff, subject to reinstatement following an appeal, if:

(1) immediate action is required to protect the public from injury or imminent danger; or

(2) a game room permit was issued based on a misrepresentation in the application, and the game room permit would not have been issued otherwise.

Sec. 234.1367. HEARING. (a) An applicant may file a written request for a hearing with the sheriff's office's game room permit administrator not later than the 20th day after the date of the denial, revocation, or suspension. The applicant waives the right to a hearing if the request is not timely received by the administrator.

(b) The applicant may reapply for a game room permit if the applicant makes the changes necessary for the proposed game room to be in compliance with this subchapter and regulations adopted under this subchapter.

(c) The decision of the hearing examiner is final. The losing party may appeal the decision by filing a petition in a district court in the county not later than the 30th day after the date of the decision. Judicial review is under the substantial evidence rule, and the judgment of the district court may be appealed, as in other civil cases.

SECTION 7. Section 234.132, Local Government Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular Session, 2013, is repealed.

SECTION 8. Subchapter E, Chapter 234, Local Government Code, as added by Chapter 1377 (H.B. 1127), Acts of the 83rd Legislature, Regular Session, 2013, is repealed.

No equivalent provision. (*But see SECTION 8 above.*)

No equivalent provision. (*But see SECTION 7 above.*)

SECTION 9. This Act takes effect September 1, 2015.

No equivalent provision. (*But see SECTION 2 below.*)

No equivalent provision. (*But see SECTION 1 below.*)

SECTION 1. Subchapter E, Chapter 234, Local Government Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular Session, 2013, is repealed.

SECTION 2. Section 234.132, Local Government Code, as added by Chapter 1377 (H.B. 1127), Acts of the 83rd Legislature, Regular Session, 2013, is repealed.

SECTION 3. Same as introduced version.